IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE CIVIL JURISDICTION

Writ Petition No 938l of 2004

M/s Genjai .Vandhaji & Co
through Bharat B Jain.. ...Petitioner
vs
Prabhakar Balkrishna Bartakke..Respondent

Mr.U S Samudrala for petitioner
Mr P.S.Dani for Respondent

CORAM: A.P.SHAH J.
Dated 3.l0.2005

P.C:

l. The challenge is to the decree for eviction passed against the petitioner by the District Court Alibag on the ground that the premises were not used by the petitioner for the purpose for which it was let out for continuous period of more than six months without reasonable cause. It is the case of the respondent landlord that the petitioner has not been using the suit premises since about 20 years prior to the filing of the suit. Court Commissioner was appointed for the purpose of inspecting the condition of the suit premises and a report came to be made to the court. As can be seen from the report, the Commissioner found that the premises were not in use and there were only old business registers and books of accounts lying in the premises and calenders of the year l99l-92

were tied on the wall. It is also mentioned in the report that the stair case for going up, up stairs was closed by tin shed and the premises were found completely vacant and the padvi was also found to have ben filled with lumber and scrap material. Except in the main hall, no electric fittings were there in any other room and no items of furniture like table or chair were found in the premises. It is also pertinent to note that the electricity bills in respect of the premises from Jan l993 show a very less or no consumption which also indicates that the suit premises have not been used . The tenant has not cared to enter the witness box. There is no evidence worth the name to show that the premises were actually used by the tenant. In the circumstances, I do not see any ground to interfere with the finding of fact recorded by the district court that the suit premises have not been used by the tenant for continuous period of more than six months immediately preceding the date of the suit. Petition is dismissed.